

P-421/M-86-651REQUIRING TARIFFED RATES FOR PAY-PER-VIEW SERVICE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of Northwestern Bell Telephone
Company's Tariff Proposal Initiating a New
Service Called Automatic Number
Identification Order Entry Service

ISSUE DATE: September 22, 1988

DOCKET NO. P-421/M-86-651

ORDER REQUIRING TARIFFED RATES
FOR PAY-PER-VIEW SERVICE

PROCEDURAL HISTORY

On October 31, 1986 Northwestern Bell Telephone Company (the Company) made a tariff filing to initiate a new service called Automatic Number Identification Order Entry Service (ANI service). The tariff went into effect as filed 60 days later.

On May 12, 1988 the Department of Public Service (the Department) filed comments on the service, recommending that the Commission change the ANI tariff to require that one service component, Pay-Per-View (PPV) service, be tariffed rather than priced on an individual case basis. The Department based its recommendation on the prohibition against price discrimination and on its position that Minn. Stat. 237.57 et seq. (1986) was now the sole regulatory vehicle for granting telephone companies price flexibility.

The Company opposed this recommendation on grounds that PPV costs vary widely from one customer to another, making it difficult to develop accurate tariffed rates or to compete in the PPV market without pricing flexibility.

No other party commented on the service or on the Department's recommendation.

FINDINGS AND CONCLUSIONS

The Commission agrees with the Department that the Company has not demonstrated the exceptional circumstances necessary to justify case by case pricing for this service.

The Commission does not agree with the Department that the enactment of Minn. Stat. 237.57 et seq. (1986) stripped the Commission of its previous authority to grant pricing flexibility independent of that statutory scheme. As explained in the Order permitting flexible pricing of the CaroLine service, the Commission believes the new legislation was intended to broaden the range of regulatory options, not to constrict it. In the Matter of a Request for Price Flexibility for CaroLine Services Offered by Northwestern Bell Telephone Company and Various Miscellaneous Tariff Changes Regarding CaroLine Services, Docket No. P-421/M-85-903, Order Denying Reconsideration (September 7, 1988). On the other hand, the creation of the new streamlined regulatory process increases the burden on any company seeking flexible pricing outside that statutory scheme.

Clearly, companies expecting to seek pricing flexibility with any degree of regularity should elect alternative regulation and comply with the accounting requirements of the new statute. Companies which choose not to elect should seek flexible pricing and other perquisites of the new legislation only under exceptional circumstances. Frequent requests for treatment outside the normal course of traditional regulation signify a need to elect. The Commission does not intend to permit the companies to evade electing under the new legislation.

In this case, Northwestern Bell has not shown the exceptional circumstances necessary to justify flexible pricing. Flexible pricing would no doubt enhance the Company's ability to compete in the PPV market, but that is true of any number of services the Company offers. More is required to justify treatment outside the normal course of traditional regulation.

In the CaroLine and Centrex/Centron cases, where pricing flexibility was granted, the services at issue were established services with broad customer bases. They were providing contribution to local service rates, and any losses the Company might sustain through inability to compete would affect existing local service rates. These were exceptional circumstances in large part due to this potential for tangible ratepayer losses. PPV, on the other hand, is a new service for which the Company is attempting to develop a customer base. What is really at stake is the Company's entrepreneurial freedom, precisely the interest the new legislation was designed to further. Such circumstances do not justify treatment outside the normal course of traditional regulation.

The Commission will reject the Company's request to price PPV services on an individual case basis and require a new tariff filing setting specific rates for PPV services. Current PPV pricing procedures will apply until the Commission acts on the new tariff filing.

ORDER

1. Within 20 days of the date of this Order Northwestern Bell Telephone Company shall file a tariff setting specific rates for PPV services.
2. Within 30 days of the tariff filing, the Department of Public Service shall file its recommendation thereon.

3. Current PPV pricing procedures shall remain in effect until the Commission acts on the new PPV tariff filing.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)